

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Consolidated Matters of:

PARENT ON BEHALF OF STUDENT,

OAH CASE NO. 2012031078

v.

BALDWIN PARK UNIFIED SCHOOL
DISTRICT AND COVINA-VALLEY
UNIFIED SCHOOL DISTRICT

BALDWIN PARK UNIFIED SCHOOL
DISTRICT AND COVINA-VALLEY
UNIFIED SCHOOL DISTRICT

OAH CASE NO. 2012070228

v.

PARENT ON BEHALF OF STUDENT.

ORDER GRANTING STUDENT'S
MOTION FOR LEAVE TO AMEND

On March 27, 2012, Student filed a Due Process Hearing Request, naming Baldwin Park Unified School District (BPUSD) and Covina-Valley Unified School District (CVUSD). Student filed an amended complaint on April 16, 2012 and a second amended complaint on April 27, 2012. On July 25, 2012, OAH issued an order consolidating the matter with OAH Case No. 2012070228. On September 17, 2012, Student filed a Motion for Leave to Amend and a Third Amended Complaint (complaint). No opposition was received from any party. On September 25, 2012, BPUSD filed a Response to Third Amended Complaint. On September 27, 2012, CVUSD filed a Response to Third Amended Request for Due Process. OAH interprets the lack of opposition from the two districts, and their filing of responses, as indicating non-opposition to the amendment.

An amended complaint may be filed when either (a) the other party consents in writing and is given the opportunity to resolve the complaint through a resolution session, or (b) the hearing officer grants permission, provided the hearing officer may grant such permission at any time more than five (5) days prior to the due process hearing. (20 U.S.C.

§1415(c)(2)(E)(i).)¹ The filing of an amended complaint restarts the applicable timelines for the due process hearing. (20 U.S.C. §1415(c)(2)(E)(ii).)

The unopposed motion to amend is timely and is granted. The amended complaint shall be deemed filed on the date of this order. BPUSD and CVUSD have filed substantive responses to the complaint.

Student contends the amendment does not require OAH to vacate the current timeline. However, the parties have not filed anything with OAH demonstrating that the districts and Student have mutually agreed to waive the mandatory resolution sessions and the current dates do not allow resolution sessions to proceed with each district. Therefore, all applicable timelines shall be reset as of the date of this order. OAH will issue a scheduling order with the new dates.

IT IS SO ORDERED.

Dated: September 28, 2012

/s/

MARIAN H. TULLY
Administrative Law Judge
Office of Administrative Hearings

¹ All statutory citations are to Title 20 United States Code unless otherwise indicated.